

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	CRIM. NO. 1:21-MJ-008
)	
v.)	(Magistrate Judge Carlson)
)	
BARTON SHIVELY)	(Electronically Filed)

MOTION FOR DETENTION

AND NOW comes the United States of America, by undersigned counsel, pursuant to Title 18 U.S.C. §§3141-42, and requests detention of the above-named defendant, setting forth in support thereof:

 X 1. That the government is entitled to a detention hearing based upon the following:

 a. Defendant is charged with an offense enumerated in Title 18 U.S.C. §3142(f)(1)(A), specifically:

 i. a Crime of Violence as defined in Title 18 U.S.C. §3156(4); or

 ii. Sex Trafficking of Children as outlined in Title 18 U.S.C. §1591; or

_____iii. A Federal Crime of Terrorism as listed in Title 18 U.S.C. §2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; or

_____b. Defendant is charged with an offense for which the maximum sentence is life imprisonment or death, *see* 18 U.S.C. §3142(f)(1)(B); or

_____c. Defendant is charged with an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (Title 21 U.S.C. §801 *et seq.*), or the Controlled Substances Import and Export Act (Title 21 U.S.C. §951 *et seq.*), or chapter 705 of title 46 *see* Title 18 U.S.C. §3142(f)(1)(C); or

_____d. Defendant is presently charged with a felony and has been convicted of two or more offenses described in subparagraphs (f)(1)(A)-(C) above, or two or more state or local offenses that would have been offenses described in subparagraphs (f)(1)(A)-(C) above if a circumstance giving rise to federal jurisdiction had existed or a

combination of such offenses, *see* Title 18 U.S.C. §3142(f)(1)(D); or

_____e. Defendant is charged with a felony that is not otherwise a Crime of Violence that involves a minor victim or that involves the possession or use of a firearm or destructive device, or involves a failure to register under Title 18 U.S.C. §2250, *see* Title 18 U.S.C. §3142(f)(1)(E); or

_____f. That a serious risk exists that defendant will flee, *see* Title 18 U.S.C. §3142(f)(2)(A); or

___X___g. That a serious risk exists that defendant will obstruct or attempt to obstruct justice or threaten injure or intimidate or attempt to threaten injure or intimidate, a prospective witness or juror. *See* Title 18 U.S.C. §3142(f)(2)(B).

_____2. That a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community, in that:

_____a. Defendant has been convicted of a federal offense described

in sub § (f)(1)(A)-(E) above, or of a state or local offense that would have been an offense described in sub § (f)(1)(A)-(E) above if a circumstance giving rise to federal jurisdiction had existed. *See* Title 18 U.S.C. §3142(e)(2)(A);

_____b. The offenses described in sub § (f)(1)(A)-(E) above were committed while defendant was on release pending trial for a federal, state or local offense, *see* 18. U.S.C. §3142(e)(2)(B); and

_____c. A period of not more than five years has elapsed since the date of defendant's conviction or release from imprisonment for the offenses described in sub§ (f)(1)(A)-(E) above, whichever is later. *See* 18 U.S.C. §3142(e)(2)(C).

_____ 3. That a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the appearance of defendant as required and the safety of the community if there is probable cause to believe:

_____a. Defendant committed an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the

Controlled Substances Act (Title 21, U.S.C. §801 *et. seq.*), the Controlled Substances Import and Export Act (Title 21 U.S.C. §951 *et. seq.*), or Chapter 705 of title 46, *see* Title 18 U.S.C. §3142 (e)(3)(A);

_____ b. Defendant committed an offense under Title 18 U.S.C., §924(c), that is, defendant did, during and in relation to any crime of violence or drug trafficking crime, use or carry a firearm, *see* Title 18 U.S.C. §3142(e)(3)(B); or

_____ c. Defendant committed an offense under Title 18 U.S.C. §956(a); that is, defendant conspired with one or more other persons to commit an act outside of the United States that would constitute the offense of murder, kidnapping or maiming if committed within the jurisdiction of the United States, *see* Title 18 U.S.C. §3142(e)(3)(B); or

_____ d. Defendant committed an offense under Title 18 U.S.C. § 2332(b), that is, defendant committed an act of terrorism transcending national boundaries;

_____ e. Defendant committed an offense for which a maximum

term of imprisonment of 10 years or more is prescribed under Title 18 U.S.C. § 2232(b)(g)(5)(B),

_____ f. Defendant committed an offense for which a maximum term of imprisonment of twenty years or more is prescribed under chapter 77; or

_____ g. Defendant committed an offense involving a minor victim under Title 18 U.S.C. §§ 1201, 1591, 2241-42, 2244-45, 2251-52, 2260, 2421-23 or 2425. *See* 18 U.S.C. § 3142(e)(2)(E).

 X 4. The Government further submits that no condition or combination of conditions will reasonably assure the appearance of defendant as required and the safety of any other person and the community because:

 X a. Defendant is a danger to any other person or the community, and/or;

_____ b. Defendant is a flight risk.

_____ 5. The defendant is currently in custody on other matters. The United States requests the entry of a detention order at this time

without prejudice to a full detention hearing in the event that the defendant's custodial status changes.

_____6. The United States requests a continuance of three days in which to prepare for a hearing on this motion pursuant to 18 U.S.C. § 3142(f)(2)(B).

Respectfully submitted,

BRUCE D. BRANDLER
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Dated: January 19, 2021

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